

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DEPUY SPINE, INC., f/k/a DEPUY
ACROMED, INC., and BIEDERMANN
MOTECHE GMBH,

Plaintiffs,

v.

MEDTRONIC SOFAMOR DANEK, INC.,
f/k/a SOFAMOR DANEK GROUP, INC.,
and MEDTRONIC SOFAMOR DANEK
USA, INC.,

Defendants.

Civil Action No. 01-CV-10165 EFH

Judge Edward F. Harrington

~~10/1/05~~ **STIPULATED FINAL JUDGMENT**

WHEREAS Plaintiffs DePuy Spine, Inc. and Biedermann Motech GmbH (collectively, "Plaintiffs") and Defendants Medtronic Sofamor Danek, Inc. and Medtronic Sofamor Danek USA, Inc. (collectively, "Defendants") have stipulated to entry of final judgment in this matter;

WHEREAS Plaintiffs and Defendants hereby agree that entry of this Stipulated Final Judgment, together with the Court's judgment entered on February 10, 2005, resolves all matters in dispute between them arising from the facts and circumstances alleged in the Complaint in this action, up to the date of entry of this Order;

WHEREAS, upon entry of this Order, but without admitting or denying the allegations, findings of fact, or conclusions of law in the Complaint, any of this Court's prior Orders related to this action, or any of the prior decisions of the U.S. Court of Appeals for the Federal Circuit related to this action, Plaintiffs and Defendants agree to waive all rights to seek further judicial review or otherwise challenge or contest the validity of this Order (including amounts owed, or

setoffs due, for MAS royalties to date under this Court's Order of Permanent Injunction dated January 27, 2005);

NOW THEREFORE

IT IS HEREBY ORDERED AND ADJUDGED that a final judgment with respect to damages on Vertex products is entered in favor of Plaintiffs and against Defendants in the aggregate total amount of **\$179,000,000**, computed in the following manner:

- (1) lost profits damages of \$157,793,583, which includes a full and final accounting of all sales of the accused infringing Vertex products;
- (2) pre-judgment interest of \$13,044,757, being the amount of pre-judgment interest computed at the average daily one-year United States Treasury Bill rate, compounded annually, and calculated on an after-tax basis;
- (3) statutory post-judgment interest of \$8,500,052 calculated at 3.17% and compounded annually, pursuant to 28 U.S.C. § 1961; and
- (4) a setoff of \$338,392, in favor of Defendants, for overpayments on MAS royalties pursuant to the Court's Order of Permanent Injunction dated January 27, 2005.

IT IS FURTHER ORDERED that Defendants must execute the transfer of the aggregate total judgment amount no later than June 30, 2009, by wire transfer and pursuant to wire instructions provided by Plaintiffs, unless otherwise agreed and stipulated to by all parties to this action;

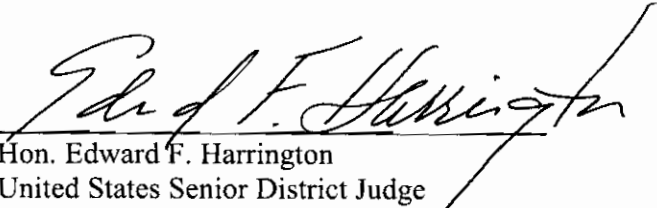
IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for the sole purpose of enabling any of the parties to this action to apply to the Court at any time for such further orders or directives as may be necessary or appropriate for the interpretation or

modification of this Order, the enforcement of compliance therewith, the punishment of violations thereof, or as justice may require.

Each party shall bear its own attorneys' fees and costs.

IT IS SO ORDERED AND ADJUDGED.

Dated: June 29, 2009


Hon. Edward F. Harrington
United States Senior District Judge

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